IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2005

CORAM

THE HON'BLE MR.MARKANDEY KATJU, CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

Writ Appeal No.2847 of 2003

N.Sivaraman ..Appellant.

Vs.

1. Director of Employment and Training,
   Chepauk, Chennai - 5.

2. The correspondent and Secretary,
   Anjuman Industrial Technical Institute,
   846, Mount Road,
   Chennai - 2.

3. Mohamed Riaz,
   Instructor,
   Anjuman Industrial Technical Institute,
   846, Mount Road,
   Chennai - 2.

4. Vazeer Ali,
   Instructor,
   Anjuman Industrial Technical Institute,
   846, Mount Road,
   Chennai - 2. ..Respondents.

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Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in Writ Petition No.14520 of 1995 dated 27.06.2003.

(WP.No.14520/95 presented under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to regularise the petitioner in the post of Electrical Instructor in Anjuman Industrial Technical Institute before regularising the respondents 3 and 4, who are juniors to the petitioner)

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For Appellant :: Mr.S.M.Subramaniam

For Respondent – 2 :: Mr.A.Abdul Rahim

J U D G M E N T

(The Judgment of the Court was delivered by The Hon'ble The Chief Justice)

This writ appeal has been filed against the impugned order of the learned single Judge dated 27.06.2003 passed in W.P.No.14520 of 1995.

2. We have carefully perused the impugned order and heard the learned counsel for the parties. The appellant was only a temporary employee as stated in paragraph – 6 of the impugned order. It is well settled that a temporary employee has no right to the post, vide State of U.P. Vs. Kaushal Kishore Shukla, (1991) 1 SCC 691. It appears that an interview was held for the purpose of regularisation, but as stated in paragraph 7 of the impugned order the petitioner/appellant was not found fit while others were found fit.

3. Learned counsel for the appellant states that the appellant was senior to those who were regularised. In our opinion, there is no absolute rule that a senior must be first promoted or first regularised before his juniors. It often happens that the senior is incompetent or dull or lacking in integrity whereas his juniors may be very bright and competent and upright. At any event, this is for the concerned authority to decide and not for this Court. We cannot give a premium to seniority overriding intelligence, hardwork, competence and honesty. Seniority alone is not the sole guiding criteria in these matters. There are various considerations for the concerned authority for granting regularisation or selection. This Court cannot sit as a court of appeal over administrative decisions. It can only interfere if there is violation of law or on Wednesbury principles, vide Tata Cellular Vs. Union of India, AIR 1996 SC 11, Rama Muthuramalingam Vs. Deputy Superintendent of Police, AIR 2005 Mad 1 and an unreported judgment of this Court dated 07.04.2005 passed in W.A.No.520 of 2005 (Tamil Nadu Electricity Board and Another Vs. Bharathiya Electricity Employees Federation). The writ appeal is dismissed. Consequently, connected W.A.M.P.No.1172 of 2005 is closed.

Vu/sm

Sd/
Asst.Registrar

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Sub Asst.Registrar

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Copy to:-

The Director of Employment and Training,
Chepauk, Chennai - 5.

+ 1 cc to Mr.S.M.Subramaniam, Advocate (SR No.17164)

+ 2 ccs to Mr.A.Abdul Rahim, Advocate SR No.17248

W.A.No.2847 of 2003

JRG(CO)
SR/19.4.2005

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